

GUARDIANSHIP

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Get a Permanent Appointment for an Adult

Part 1: Preparing the First Court Papers
(Instruction Packet)

SELF-SERVICE CENTER

GUARDIANSHIP

GET A PERMANENT APPOINTMENT FOR AN ADULT

Part 1: Preparing the first Court Papers (Instructions Only)

This packet contains instructions for preparing the first court papers for a permanent appointment for guardianship for an adult. Be sure the documents are in the following order:

Order	File Number	Title	No. Pp.
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2	PBGA10p	Procedures: How to ask the court to appoint a guardian of an adult	5

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SELF-SERVICE CENTER

HOW TO ASK THE COURT TO APPOINT A GUARDIAN OF AN ADULT

USE THIS PACKET if you want to be appointed a guardian for an incapacitated adult. This packet does **not** help you with the following processes:

- Guardianship or conservatorship for minors;
- Temporary or emergency appointments of guardians or conservators for adults
- Guardians for gravely disabled persons.
- Conservatorship for adults.

Follow each step carefully. Each step contains certain forms, and some of these forms have extra instruction sheets to help you. The whole process will take at least a couple of months.

FIRST STEPS:

STEP 1 MAKE SURE YOU NEED TO BE APPOINTED AS GUARDIAN ONLY AND NOT AS A CONSERVATOR, TOO. If you are not sure, the Self-Service Center has information available describing the different requirements for between appointments for guardianships and conservatorships. See the Checklist at the beginning of the forms packet. The Self-Service Center has three separate packets: one for guardians, one for conservators, and one for both guardians and conservators.

To qualify for a guardian, the adult person you say needs a guardian must be “incapacitated”. This means he or she must lack sufficient understanding or capacity to make or communicate responsible decisions concerning his or her person as a result of:

- A mental illness,
- Mental deficiency,
- Mental disorder,
- Physical illness or disability,
- Chronic use of drugs, **AND/OR**
- Chronic intoxication or other cause.

If the person is “incapacitated”, the court can appoint a guardian to assist the incapacitated person (**called a “ward”**) in obtaining needed mental health or medical care.

2 MENTAL HEALTH TREATMENT: All guardians for adults have the authority to consent for their wards to receive psychiatric and psychological care and treatment as long as the treatment **occurs outside the hospital**. This includes:

- The authority to consent to administration of psychotropic medications, **AND**
- The court can also grant a guardian the added authority to consent to mental health care and treatment in a “**level one behavioral health facility**” (essentially in a hospital setting) if the court finds the ward currently needs inpatient mental health treatment.

Note: You must specifically request inpatient mental or behavioral health treatment authority in your Petition and must obtain a special report from the proposed ward’s doctor. (**See 4A below.**)

- 3 DRIVER'S LICENSE:** Upon appointment of a guardian incapacitated adult generally loses his or her privilege to obtain or retain a driver's license. The court may allow the person to retain their driver's license upon petition.

Note: If you believe the person should be allowed to continue to drive, you must request that in your Petition and must obtain a statement from the person's physician that the person is capable of continuing to drive. **(See 4A1 below.)**

- 4 COMPLETE THE COURT FORMS IN THIS PACKET:** Fill out all the forms completely and in **black ink**.

- **PROBATE COVER SHEET.** Complete everything but the "Case Number." The case number will be stamped with a Probate Case Number starting with the letters "**PB**" by the Clerk of the Court when you file the papers. You will use this case number on all court papers after you file the papers with the clerk.
- **PETITION FOR APPOINTMENT OF GUARDIAN (With Request for Appointment of Attorney, Physician, and Court Investigator/Visitor).** Fill out all the information carefully and notify the people entitled to know about this matter. If you have questions about who is entitled to notice, see the Self-Service Center Packet Part 2: **Service and Notice of Court Hearing**, then read the document called INFORMATION ON LEGAL NOTICE FOR GUARDIANSHIPS AND CONSERVATORSHIPS.

A. Information about Physician: A PETITION FOR APPOINTMENT OF A GUARDIAN for an incapacitated adult must include the name and address of a physician who will examine the person, write a report to the court about the person's condition, and determine whether the person needs inpatient mental health treatment. The Judge/Commissioner will **always** appoint the physician in guardianship cases, and sometimes in conservatorship cases.

Note: The Petitioner must pay the physician for this service.

- 1) If you are requesting that the person be allowed to continue to drive, you must have the physician state in the report the doctor's opinion whether the person has the physical and mental capacity to do so.
 - 2) Ask the doctor if the person is currently in need of inpatient behavioral or mental health treatment. If so, you will likely want to request inpatient treatment authority in your Petition. If you are seeking inpatient treatment authority, the report must be from a licensed psychologist or psychiatrist stating that the person is currently in need of inpatient behavioral or mental health treatment.
- B. Appointment of Attorney:** A PETITION FOR APPOINTMENT OF A GUARDIAN must include a request for the court to appoint a lawyer who will represent the person you say needs the guardian or if the person already has a lawyer, you must include the name and address of the lawyer in the Petition. Otherwise, you need to call the Office of Court Appointed Counsel, 602-506-7437, after you file the court papers to get the name of a lawyer who will do this.
- C. AFFIDAVIT OF PERSON TO BE APPOINTED (ARS §14-5106(A)).** This document must be completed by the Petitioner (the person who wants to be appointed guardian) and filed with the PETITION FOR APPOINTMENT.

5 COPIES: Make **3 copies** of all the completed forms. Assemble the copies so that you have **4 complete packets** -- the originals and 3 sets of copies.

OTHER PAPERS: Complete the following forms and make one copy of each form. Keep the originals and copies together for later use.

Note: These forms are not filed with the Clerk, but you will need them later to schedule a court hearing.

- **PETITIONER'S INFORMATION SHEET TO COURT INVESTIGATOR.** This document provides all the important information to the Court Investigator so that the case will not be delayed.
- **INSTRUCTIONS AND REQUEST FOR HEARING DATE.** This is the form to get the hearing date set at a time you can attend. After filing all the other papers, you will take this form to Probate Court Administration to get the hearing date set at a time you can attend.

TO FILE THE PAPERS AT THE COURT:

STEP 6 DETERMINE WHERE TO FILE THE COURT FORMS: There are 3 locations of the Superior Court in Maricopa County: the Downtown Location in Phoenix; the Southeast Court Facility for persons who live in Mesa, Tempe, Chandler, Gilbert, and Apache Junction to the southern border of the Salt River bed, but not Scottsdale; and the Northwest Court Facility in Surprise.. Depending on where you live, select the site to file the first court papers. Keep in mind that court hearings are conducted at only the downtown Phoenix and Surprise locations.

Downtown Phoenix	Northeast Facility	Northwest Facility	Southeast Facility
201 West Jefferson, 1st floor Phoenix, AZ 85003	18380 N. 40 th St. Phoenix, AZ85032	14264 W. Tierra Buena Lane. Surprise, AZ 85374	222 East Javelina Drive, 1st floor Mesa, AZ 85210

7 TAKE THE ORIGINALS AND COPIES TO THE CLERK TO BE FILED: Take the **original and 3 copies** of the following documents to the **Clerk of the Court, Probate Registrar**, on the first floor of the court, for processing:

- PROBATE COVER SHEET
- PETITION FOR APPOINTMENT OF GUARDIAN (**With Request for Appointment of Attorney, Physician, and Court Investigator/Visitor**), AND
- AFFIDAVIT OF PERSON TO BE APPOINTED (A.R.S. §14-5106(A))

8 PAY YOUR FILING FEE: The filing fee is **\$206.00 plus \$350.00 fee for the Probate Court Investigator service**. Payment is made to the **Clerk of the Court, Probate Registrar**. If you think a fee deferral is appropriate, ask the probate clerk or the staff at the Self-Service Center for an Application for Fee Waiver or Deferral before you file your Petition.

9 NOTE YOUR "PB" CASE NUMBER: The Clerk will file the **originals**, and stamp the copies for you with the case number and proof that you filed the originals. The case number always starts with the initials **"PB."** You must use this number on every paper you file with the court from now on.

TO GET THE COURT HEARING DATE SCHEDULED:

STEP 10 TO GET A COURT HEARING DATE: Go to Probate Court Administration (1st floor in Phoenix and Surprise, 2nd floor in Mesa). Give them the **conformed copies** of the **3 packets** of forms the clerk at Probate Registrar just gave you:

- PROBATE COVER SHEET
- PETITION FOR APPOINTMENT OF GUARDIAN (With Request for Appointment of Attorney, Physician, and Court Investigator/Visitor) **AND**
- AFFIDAVIT OF PERSON TO BE APPOINTED (A.R.S. §14-5106(A))

Note: The Clerk at Probate Registrar will give you back the 3 sets of conformed copies. After you give 2 sets of the conformed copies to staff at Probate Administration, you should have one set of conformed copies for yourself if you followed the instructions in **Step 5**.

Bring the **original and one copy** of these forms:

- PETITIONER'S INFORMATION SHEET TO COURT INVESTIGATOR. Staff will take the original and copy of these forms, **AND**
- INSTRUCTIONS AND REQUEST FOR HEARING DATE. Staff will return one of these to you.

11 HOW YOU WILL GET THE COURT HEARING DATE: Probate Court Administration will schedule the hearing: date, time, place, and judicial officer. Staff will give you back a copy of the INSTRUCTIONS AND REQUEST FOR HEARING DATE, with the information highlighted with a colored marking pen for you. Be sure you keep this important document!

TO GET THE NAME AND ADDRESS OF A COURT-APPOINTED LAWYER:

STEP 12 WHO TO CALL AND WHAT TO SAY: The person you say needs a guardian **must** have a lawyer. If there is no lawyer already representing him or her in this matter, you must arrange for a court-appointed lawyer by telephoning the **Office of Court-Appointed Counsel (OCAC), 602-506-7437, between 8:00 A.M. and 5:00 P.M., Monday through Friday**. Be prepared to give the following information:

- Request the name of a lawyer who will be appointed in an adult guardianship matter,
- The PB case number,
- The name of the person who needs a guardian and the address and phone number where that person is currently living, **AND**
- The date and time of the scheduled court hearing and the name of the Judge/Commissioner who will be hearing the matter.

To Get the Order Appointing Attorney, Physician, and Court Investigator/ Visitor:

STEP 13 COMPLETE THE FORM "ORDER APPOINTING ATTORNEY, PHYSICIAN, AND COURT INVESTIGATOR": Now that you have all the information, complete the form except for the date and Judge's signature. The Court Investigator's name does not need to be written in, just write "court investigator."

- 14. GIVE THE ORDER TO THE PROBATE REGISTRAR:** Mail or hand-deliver the **original and 1 copy** of the ORDER APPOINTING ATTORNEY, PHYSICIAN AND COURT INVESTIGATOR/VISITOR with the names of the attorney (court-appointed or private) and physician to the Probate Registrar at the court location where your case was filed.

You **must** also include the **copy** of the REQUEST FOR HEARING form you received from Probate Court Administration. Include a 9" x 12" self-addressed stamped envelope with you so the Probate Registrar can mail a copy of the Order to you after it is signed. You must do this at least **30 days before** the scheduled court hearing date.

- 15. HOW YOU WILL GET A SIGNED "ORDER APPOINTING THE ATTORNEY AND PHYSICIAN":** The Probate Registrar will sign the Order and mail you a copy of the Order so you can proceed with the next step called NOTICE OF THE HEARING.

- 16. NEXT STEP:** Now you are ready to give notice of the court papers and the hearing to everyone who is entitled to know about the court case before the hearing date. There are important procedures and time lines for this, which you must follow. These are described in the Self-Service Center Packet Part 2: **Service and Notice of Court Hearing**. You must also give the appointed physician the GUIDELINES FOR PHYSICIAN REPORT. Be sure to get the written report from the physician and give copies to everyone listed in the ORDER APPOINTING PHYSICIAN.

- 17. OTHER HELP:** If you still have questions about this procedure, you can ask a lawyer for legal advice. You can look up a lawyer in the telephone book under "attorneys." Also, the Self-Service Center has a list of lawyers who will help you help yourself. The list shows where the lawyers are located, how much they charge to look over the court papers or answer your questions, and what their experience is.

**ALL FORMS REFERRED TO IN THESE INSTRUCTIONS
ARE AVAILABLE AT THE SELF SERVICE CENTER.**